

Senate Bill No. 836

CHAPTER 31

An act to amend Sections 655, 2556.1, 2556.2, 3010.5, 3011, 3013, and 3020 of the Business and Professions Code, to amend Sections 846.1 and 1789.37 of the Civil Code, to amend Sections 77, 1345, 1346, 1370, 1371, 1375, 1379, and 1563 of the Code of Civil Procedure, to amend Sections 12117, 17295, 24618, 68121, 70010.1, 70010.5, 76300, 81133, and 89750.5 of the Education Code, to amend Sections 1122 and 15512 of the Fish and Game Code, to amend Sections 3955, 14978.2, and 52295 of the Food and Agricultural Code, to amend Sections 800, 850.6, 900.2, 905.2, 905.3, 906, 911.2, 912.5, 915, 920, 925, 925.4, 925.6, 926, 926.2, 926.4, 926.6, 927.13, 935.6, 935.7, 940.2, 965, 965.1, 965.5, 997.1, 998.2, 1151, 3515.7, 6254.17, 6276.08, 7599.2, 8652, 8902, 11007.6, 11014, 11030.1, 11030.2, 11031, 11125.7, 11125.8, 11270, 11270.1, 11274, 11275, 11852, 11854, 11860, 11862, 11864, 11870, 11872, 11874, 11880, 11890, 11892, 11894, 12432, 12803.2, 13300, 13300.5, 13332.02, 13332.03, 13332.09, 13900, 13901, 13905, 13909, 13951, 13972, 13973, 13974, 13974.1, 13974.5, 13995.40, 14084, 14600, 15202, 16302.1, 16304.6, 16383, 16431, 17051.5, 17201, 18708, 19815.4, 20163, 21223, 21265, 22910, 22911, 26749, 68503, 68506, 68543, 68543.5, 68543.8, and 68565 of, to amend the heading of Article 5 (commencing with Section 11890) of Chapter 10 of Part 1 of, and to amend the heading of Part 4 (commencing with Section 13900) of, Division 3 of Title 2 of, to amend and renumber Sections 13920, 13923, 13928, 13940, 13941, 13942, 13943, 13943.1, 13943.2, 13943.3, and 13944 of, to amend, repeal, and add Section 17518.5 of, to repeal Sections 11276 and 11277 of, to add Sections 11893, 11895, 14659, 14659.01, 14659.02, 14659.03, 14659.04, 14659.05, 14659.06, and 14659.07 to, to add Article 5.2 (commencing with Section 9112) to Chapter 1.5 of Part 1 of Division 2 of, and to add Article 3.5 (commencing with Section 14691) to Chapter 2 of Part 5.5 of Division 3 of, Title 2 of, to add the heading of Article 2.5 (commencing with Section 12433) to Chapter 5 of Part 2 of, and to add the heading of Article 1.1 (commencing with Section 14659) to Chapter 2 of Part 5.5 of, Division 3 of Title 2 of, the Government Code, to amend Sections 1492, 11502, 13052, 25372, 25373, 25374, 25375, 25375.5, 25376, 25377, 25379, 25380, 25381, 25382, and 121270 of, and to repeal Section 25370 of, the Health and Safety Code, to amend Sections 11580.1 and 11872 of the Insurance Code, to amend Sections 1308.10, 1684, 1698, 1700.18, 1706, 1720.9, 2059, 2065, 2658, 2699, 4724, 4725, 4726, 6507, 7311.4, 7314, 7315, 7340, 7341, 7342, 7343, 7344, 7345, 7346, 7347, 7348, 7350, 7351, 7352, 7353, 7354, 7354.5, 7356, 7357, 7373, 7720, 7721, 7722, 7904, 7924, 7929, 7991, 8001, 8002, 9021.6, and 9021.9 of, to amend the heading of Chapter 4 (commencing with Section 7340) of Part 3 of Division 5 of, to amend, repeal, and add Section 2699.3 of, to add Section 1308.11 to, to repeal Section 9021.7 of, and to repeal and add Section 7380 of, the Labor Code, to amend Sections 422.92, 600.2, 600.5, 851.8, 851.865, 987.9, 1191.15, 1191.2, 1202.4, 1202.41, 1214, 1463.02, 1485.5, 1485.55, 1557, 2085.5, 2085.6, 2786, 4900, 4901, 4902, 4904, 4905, 4906, 11163, 11172, 13835.2, and 14030 of the Penal Code, to amend Sections 216 and 9202 of the Probate Code, to amend Sections 10301, 10306, 10308, 10311, 10326.2, and 12102.2 of the Public Contract Code, to amend Sections 4116, 4602.6, 5093.68, and 30171.2 of, and to add Chapter 6.7 (commencing with Section 21189.50) to Division 13 of, the Public Resources Code, to amend Sections 17059.2, 23636, and 23689 of the Revenue and Taxation Code, to amend Section 30162 of the Streets and Highways Code, to amend Sections 1095 and 14013 of the Unemployment Insurance Code, and to amend Sections 1752.81, 1752.82, 4461, 11212, 14171.5, 14171.6, and 15634 of the Welfare and Institutions Code, relating to state government, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor June 27, 2016. Filed with Secretary of State June 27, 2016.]

SB 836, Committee on Budget and Fiscal Review. State government.

SEC. 65. Article 5.2 (commencing with Section 9112) is added to Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code, to read:

Article 5.2. State Capitol Building Annex Act of 2016

9112. (a) Notwithstanding any other law, including Section 9108, the Joint Rules Committee may pursue the construction of a state capitol building annex or the restoration, rehabilitation, renovation, or reconstruction of the State Capitol Building Annex described in Section 9105.

(b) (1) All work performed pursuant to this article shall be administered and supervised by the Department of General Services, subject to review by the State Public Works Board, pursuant to an agreement with the Joint Rules Committee.

(2) The Department of General Services shall report to the Joint Rules Committee on the scope, budget, delivery method, and schedule for any space to be constructed, restored, rehabilitated, renovated, or reconstructed pursuant to this article.

(c) (1) Notwithstanding any other law, any action or proceeding alleging that a public agency has approved or is undertaking work pursuant to this article in violation of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) shall be subject to Chapter 6.7 (commencing with Section 21189.50) of Division 13 of the Public Resources Code.

(2) The State Public Works Board shall not be deemed a lead or responsible agency for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) for any activities under this article. This section is declarative of existing law.

(d) Notwithstanding any other law, all work performed pursuant to this article by the Department of General Services shall be exempt from the State Contract Act (Chapter 1 (commencing with Section 10100) of Part 2 of Division 2 of the Public Contract Code).

(e) Prevailing wages shall be paid to all workers employed on a project that is subject to this article, in accordance with Article 2 (commencing with Section 1770) of Chapter 1 of Part 7 of Division 2 of the Labor Code.

SEC. 136. Article 3.5 (commencing with Section 14691) is added to Chapter 2 of Part 5.5 of Division 3 of Title 2 of the Government Code, to read:

Article 3.5. State Projects

14691. (a) For purposes of this article, the following definitions shall apply:

(1) "Acquisition" includes purchase, option to purchase, or lease of real property, including lease purchase or lease with option to purchase.

(2) "Planning" includes studies, suitability reports, environmental review, program management, and master planning. Services to deliver "planning" shall be considered "architectural and engineering services" as that term is used in Section 4529.10.

(3) "State project" means any planning, acquisition, design, or construction undertaken pursuant to this article and may include associated infrastructure, parking, landscaping, and other ancillary components, including furnishings and equipment instrumental to the use of a building. "State project" does not include work done to the State Capitol or an office building utilized by or under the control of the Legislature, including work done pursuant to Article 5.2 (commencing with Section 9112) of Chapter 1.5 of Part 1 of Division 2.

(b) It is the intent of the Legislature that any state project authorized pursuant to this article incorporate elements complementary to the community in which it is sited, as well as elements that promote efficiency and sustainability.

14692. (a) (1) The State Project Infrastructure Fund is hereby established in the State Treasury.

(2) Notwithstanding Section 13340, the fund is continuously appropriated to the department, without regard to fiscal years, for the following purposes:

(A) Subject to authorization as provided in this article, for state projects pursuant to this article.

(B) To cover the costs of the report required by Section 9112.

(C) (i) For transfer to the Operating Funds of the Assembly and Senate, to be used for the capital outlay projects specified in Article 5.2 (commencing with Section 9112) of Chapter 1.5 of Part 1 of Division 2.

(ii) Upon direction of the Director of Finance, the Controller shall transfer from the fund to the Operating Funds of the Assembly and the Senate an amount that is consistent with the budget amount specified in the report required by Section 9112.

(b) Notwithstanding any other law, the Controller may use the funds in the State Project Infrastructure Fund for cashflow loans to the General Fund as provided in Sections 16310 and 16381.

(c) The moneys in this fund shall be exempt from statewide general administrative cost recovery pursuant to Article 2 (commencing with Section 11270) of Chapter 3 of Part 1.

(d) Any lease entered into pursuant to this article is subject to the approval of the Department of Finance and any applicable notification required by subdivision (d) of Section 14694.

14693. (a) Any state project authorized pursuant to this article shall be funded in whole or in part by the State Project Infrastructure Fund.

(b) Any state project authorized pursuant to this article shall be subject to approval and administrative oversight by the Department of Finance and the State Public Works Board, including, but not limited to, notice requirements for changes to the cost and scope of the state project as described in Sections 13332.11 and 13332.19, as applicable.

14694. (a) Prior to the development of the project scope, cost, and delivery method of a state project pursuant to subdivision (b), the department, upon approval by the Department of Finance, may utilize moneys in the State Project Infrastructure Fund for planning.

(b) The State Public Works Board shall establish the scope, cost, and delivery method for each state project.

(c) The Department of Finance, on behalf of the department, shall notify the Joint Legislative Budget Committee as follows:

(1) At least 20 days prior to an expenditure of funds for any planning activity pursuant to subdivision (b). The notice required by this paragraph shall include the purpose of the planning activity and estimates of the costs.

(2) Except as provided in Section 14695, at least 60 days prior to the establishment of the scope, cost, and delivery method of a state project pursuant to subdivision (b). The notice required by this paragraph shall have the same level of detail as a capital outlay budget change proposal and describe the scope, budget, delivery method, expected tenants, and schedule for any space to be constructed or renovated as part of that state project.

(3) At least 30 days prior to the State Public Works Board approval of the design of a state project, pursuant to Section 13332.11 or 13332.19, as applicable. The notice required by this paragraph shall include updated estimates of the project's cost and schedule.

(4) At least 30 days prior to entering into a contract or a lease arrangement for a state project that includes construction. The notice required by this paragraph shall include updated estimates of the project's cost and schedule. A state project delivered by lease pursuant to this paragraph shall be exempt from Section 13332.10.

14695. (a) Notwithstanding Section 14694, with respect to the state projects specified in subdivision (b), the Department of Finance, on behalf of the department, shall notify the Joint Legislative Budget Committee at least 45 days prior to the establishment of the scope, cost, and delivery method of the state project pursuant to

subdivision (b) of Section 14694. The notice required by this section shall have the same level of detail as a capital outlay budget change proposal and describe the scope, budget, delivery method, expected tenants, and schedule for any space to be constructed or renovated as part of that state project.

(b) This section shall only apply to a state project that is comprised solely of either of the following:

(1) Replacement of the office building that is, as of the effective date of the act adding this section, used by the Natural Resources Agency.

(2) Construction of an office building located on “O” Street in the City of Sacramento that is currently under consideration as of the effective date of the act adding this section.

14696. (a) The department shall submit, on a quarterly basis, a report on the status of each state project established by the State Public Works Board pursuant to Section 14694 to the Joint Legislative Budget Committee and to the chairpersons of the Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget. The report shall also include the amount of expenditures made from the State Project Infrastructure Fund for any state project authorized under this article.

(b) A report submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795.

14697. The State Public Works Board shall not be deemed a lead or responsible agency for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) for any activities under this article. This section is declarative of existing law.

SEC. 271. Chapter 6.7 (commencing with Section 21189.50) is added to Division 13 of the Public Resources Code, to read:

CHAPTER 6.7. JUDICIAL REVIEW OF CAPITOL BUILDING ANNEX PROJECTS

21189.50. As used in this chapter, “capitol building annex project” means any work of construction of a state capitol building annex or restoration, rehabilitation, renovation, or reconstruction of the State Capitol Building Annex described in Section 9105 of the Government Code that is performed pursuant to Article 5.2 (commencing with Section 9112) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code.

21189.51. On or before July 1, 2017, the Judicial Council shall adopt a rule of court to establish procedures applicable to actions or proceedings brought to attack, review, set aside, void, or annul the certification of the environmental impact report for a capitol building annex project or the granting of any project approvals that require the actions or proceedings, including any potential appeals therefrom, be resolved, to the extent feasible, within 270 days of certification of the record of proceedings pursuant to Section 21189.52.

21189.52. (a) The lead agency shall prepare and certify the record of the proceedings in accordance with this section and in accordance with Rule 3.1365 of the California Rules of Court.

(b) No later than three business days following the date of the release of the draft environmental impact report, the lead agency shall make available to the public in a readily accessible electronic format the draft environmental impact report and all other documents submitted to or relied on by the lead agency in the preparation of the draft environmental impact report. A document prepared by the lead agency after the date of the release of the draft environmental impact report that is a part of the record of the proceedings shall be made available to the public in a readily accessible electronic format within five business days after the document is prepared or received by the lead agency.

(c) Notwithstanding subdivision (b), documents submitted to or relied on by the lead agency that were not prepared specifically for the capitol building annex project and are copyright protected are not required to be made readily accessible in an electronic format. For those copyright protected documents, the lead agency shall make an index of these documents available in an electronic format no later than the date of the release of the draft

environmental impact report, or within five business days if the document is received or relied on by the lead agency after the release of the draft environmental impact report. The index must specify the libraries or lead agency offices in which hard copies of the copyrighted materials are available for public review.

(d) The lead agency shall encourage written comments on the capitol building annex project to be submitted in a readily accessible electronic format, and shall make any such comment available to the public in a readily accessible electronic format within five days of its receipt.

(e) Within seven business days after the receipt of any comment that is not in an electronic format, the lead agency shall convert that comment into a readily accessible electronic format and make it available to the public in that format.

(f) The lead agency shall indicate in the record of the proceedings comments received that were not considered by the lead agency pursuant to subdivision (d) of Section 21189.55 and need not include the content of the comments as a part of the record.

(g) Within five days after the filing of the notice required by subdivision (a) of Section 21152, the lead agency shall certify the record of the proceedings for the approval or determination and shall provide an electronic copy of the record to a party that has submitted a written request for a copy. The lead agency may charge and collect a reasonable fee from a party requesting a copy of the record for the electronic copy, which shall not exceed the reasonable cost of reproducing that copy.

(h) Within 10 days after being served with a complaint or a petition for a writ of mandate, the lead agency shall lodge a copy of the certified record of proceedings with the superior court.

(i) Any dispute over the content of the record of the proceedings shall be resolved by the superior court. Unless the superior court directs otherwise, a party disputing the content of the record shall file a motion to augment the record at the time it files its initial brief.

(j) The contents of the record of proceedings shall be as set forth in subdivision (e) of Section 21167.6.

21189.53. (a) In granting relief in an action or proceeding brought pursuant to this chapter, the court shall not enjoin the capitol building annex project unless the court finds either of the following:

(1) The continuation of the capitol building annex project presents an imminent threat to the public health and safety.

(2) The capitol building annex project site contains unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values that would be materially, permanently, and adversely affected by the continuation of the capitol building annex project unless the court stays or enjoins the capitol building annex project.

(b) If the court finds that either paragraph (1) or (2) of subdivision (a) is satisfied, the court shall only enjoin those specific activities associated with the capitol building annex project that present an imminent threat to public health and safety or that materially, permanently, and adversely affect unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values.

21189.54. (a) The draft and final environmental impact report shall include a notice in not less than 12-point type stating the following:

THIS EIR IS SUBJECT TO CHAPTER 6.7 (COMMENCING WITH SECTION 21189.50) OF DIVISION 13 OF THE PUBLIC RESOURCES CODE, WHICH PROVIDES, AMONG OTHER THINGS, THAT THE LEAD AGENCY NEED NOT CONSIDER CERTAIN COMMENTS FILED AFTER THE CLOSE OF THE PUBLIC COMMENT PERIOD FOR THE DRAFT EIR. ANY JUDICIAL ACTION CHALLENGING THE CERTIFICATION OF THE EIR OR THE APPROVAL OF THE PROJECT DESCRIBED IN THE EIR IS SUBJECT TO THE PROCEDURES SET FORTH IN SECTIONS 21189.51 TO 21189.53, INCLUSIVE, OF THE PUBLIC RESOURCES CODE. A COPY OF CHAPTER 6.7 (COMMENCING WITH SECTION 21189.50) OF DIVISION 13 OF THE PUBLIC RESOURCES CODE IS INCLUDED IN THE APPENDIX TO THIS EIR.

(b) The draft environmental impact report and final environmental impact report shall contain, as an appendix, the full text of this chapter.

21189.55. (a) Within 10 days after the release of the draft environmental impact report, the lead agency shall conduct an informational workshop to inform the public of the key analyses and conclusions of that report.

(b) Within 10 days before the close of the public comment period, the lead agency shall hold a public hearing to receive testimony on the draft environmental impact report. A transcript of the hearing shall be included as an appendix to the final environmental impact report.

(c) (1) Within five days following the close of the public comment period, a commenter on the draft environmental impact report may submit to the lead agency a written request for nonbinding mediation. The lead agency shall participate in nonbinding mediation with all commenters who submitted timely comments on the draft environmental impact report and who requested the mediation. Mediation conducted pursuant to this paragraph shall end no later than 35 days after the close of the public comment period.

(2) A request for mediation shall identify all areas of dispute raised in the comment submitted by the commenter that are to be mediated.

(3) The lead agency shall select one or more mediators who shall be retired judges or recognized experts with at least five years experience in land use and environmental law or science, or mediation.

(4) A mediation session shall be conducted on each area of dispute with the parties requesting mediation on that area of dispute.

(5) The lead agency shall adopt, as a condition of approval, any measures agreed upon by the lead agency and any commenter who requested mediation. A commenter who agrees to a measure pursuant to this subparagraph shall not raise the issue addressed by that measure as a basis for an action or proceeding challenging the lead agency's decision to certify the environmental impact report or to grant one or more initial project approvals.

(d) The lead agency need not consider written comments submitted after the close of the public comment period, unless those comments address any of the following:

(1) New issues raised in the response to comments by the lead agency.

(2) New information released by the public agency subsequent to the release of the draft environmental impact report, such as new information set forth or embodied in a staff report, proposed permit, proposed resolution, ordinance, or similar documents.

(3) Changes made to the project after the close of the public comment period.

(4) Proposed conditions for approval, mitigation measures, or proposed findings required by Section 21081 or a proposed reporting and monitoring program required by paragraph (1) of subdivision (a) of Section 21081.6, where the lead agency releases those documents subsequent to the release of the draft environmental impact report.

(5) New information that was not reasonably known and could not have been reasonably known during the public comment period.

21189.56. The provisions of this chapter are severable. If any provision of this chapter or its application is held to be invalid, that invalidity shall not affect any other provision or application that can be given effect without the invalid provision or application.

21189.57. Except as otherwise provided expressly in this chapter, nothing in this chapter affects the duty of any party to comply with this division.

SEC. 286. (a) It is the intent of the Legislature that any capitol building annex project undertaken pursuant to Article 5.2 (commencing with Section 9112) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code incorporate elements complementary to the historic capitol, elements to make it efficient and sustainable, and historic elements from the existing capitol building annex.

(b) It is further the intent of the Legislature that any state capitol building annex be designed as a working capitol for the public to effectively engage with their elected representatives and their state government.

(c) It is further the intent of the Legislature that the eastern façade of the historic state capitol building be restored as part of any project that includes demolition of the existing capitol building annex.

SEC. 287. The intent of the Legislature in amending Sections 17059.2 and 23689 of the Revenue and Taxation Code is to construe and clarify the meaning and effect of existing law that provides the Governor's Office of Business and Economic Development with the authority and discretion to negotiate tax credit agreements, to ensure the administration of the credit allowed pursuant to those sections is a model of accountability and transparency, and to ensure that the effective use of the limited tax credit available pursuant to those sections is maximized.

SEC. 288. The sum of one billion three hundred million dollars (\$1,300,000,000) is hereby transferred, upon direction of the Director of Finance to the Controller, from the General Fund to the State Project Infrastructure Fund established by Section 14692 of the Government Code according to the following schedule:

(a) One billion dollars (\$1,000,000,000) on or after July 1, 2016, but no later than June 30, 2017.

(b) Three hundred million dollars (\$300,000,000) on or after July 1, 2017.

SEC. 289. No reimbursement is required by this act pursuant to Section 6 of Article XIIB of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIIB of the California Constitution.

SEC. 290. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.